

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**J&J SPORTS PRODUCTIONS, INC.  
AS BROADCAST LICENSEE OF THE  
NOVEMBER 14, 2009 "FIREPOWER:"  
PACQUIAO/COTTO EVENT**

**Plaintiff,**

**v.**

**Civil Action No. 4:11-cv-03993**

**1) MELYS INVESTMENT GROUP, LLC,  
INDIVIDUALLY AND D/B/A MELY'S  
MEXICAN CUISINE AND D/B/A  
MELY'S RESTAURANT BAR; AND  
2) JOHN R. REIMER A/K/A JOHN  
RANDALL REIMER, INDIVIDUALLY  
AND D/B/A MELY'S MEXICAN  
CUISINE AND D/B/A MELY'S  
RESTAURANT BAR**

**Defendants/Third Party Plaintiffs**

**v.**

**COMCAST CORPORATION AND  
COMCAST CABLE  
COMMUNICATIONS MANAGEMENT,  
LLC**

**Third-Party Defendants**

**MELYS INVESTMENT GROUP, LLC AND JOHN R. REIMER'S  
THIRD PARTY COMPLAINT AGAINST**

**TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:**

**COMES NOW MELYS INVESTMENT GROUP, LLC INDIVIDUALLY AND  
D/B/A MELY'S MEXICAN CUISINE AND D/B/A MELY'S RESTAURANT BAR**

(“Melys”) and **JOHN R. REIMER** (“Reimer” and, with Melys, “Third-Party Plaintiffs”) and files their Third Party Complaint against and would show the Court as follows:

**I.**  
**PARTIES**

1. Third-Party Plaintiff Melys Investment Group, LLC is a Texas limited liability corporation doing business as Mely’s Mexican Cuisine and d/b/a Mely’s Restaurant.

2. Third-Party Plaintiff John R. Reimer is an individual residing in the State of Texas.

3. Third Party Defendant Comcast Corporation is a foreign corporation doing business in the State of Texas. Comcast may be served through its registered agent, CT Corporation System, 111 Eighth Avenue, New York, New York 10011.

4. Third Party Defendant Comcast Cable Communications Management, LLC (collectively with Comcast Corporation, “Comcast”) is a foreign corporation doing business in the State of Texas. Comcast may be served through its registered agent, CT Corporation System, 350 North St. Paul Street, Suite 2900, Dallas, Texas 75201.

**II.**  
**JURISDICTION AND VENUE**

5. This action arises in Texas out of causes of action under the Communications Act of 1934, as amended, 47 U.S.C. §§553 and 605.

6. Venue is proper in this District because the events giving rise to this Third-Party Complaint occurred in this District and Division. Further, Third-Party Plaintiffs are involved in other litigation in this District involving the same set of facts.

**III.**  
**BACKGROUND FACTS**

7. Third-Party Plaintiffs have been sued by **J&J SPORTS PRODUCTIONS, INC. AS BROADCAST LICENSEE OF THE NOVEMBER 14, 2009 “FIREPOWER:”**

**PACQUIAO/COTTO EVENT (“J&J”).** J&J alleges that it was the license company authorized to sub-license the closed-circuit telecast of the November 14, 2009 “Firepower”: Manny Pacquiao v. Miguel Cotto, Welterweight Championship Fight Program, including undercard or preliminary bouts, (collectively the “Event”) at closed-circuit locations such as theaters, arenas, bars, clubs, lounges, restaurants and the like throughout Texas.

8. J&J alleges that the closed-circuit broadcast of the Event was not intended for the use of the general public. J&J further alleges that in Texas, the closed-circuit broadcast of the Event could only be exhibited in a commercial establishment, if the establishment was contractually authorized to do so by J&J.

9. Pursuant to its authority to sub-license the Event, J&J allegedly marketed and distributed the closed-circuit rights granted to it. J&J allegedly contracted with various establishments throughout Texas and granted such establishments the right to broadcast the Event in exchange for a fee.

10. J&J alleges that the transmission of the Event was electronically coded or “scrambled,” and in order for the signal to be received and telecast clearly, it had to be decoded with electronic decoding equipment.

11. Third-Party Plaintiff Mely’s Mexican Cuisine has a commercial cable television account through Comcast. On November 14, 2009, Third-Party Plaintiff Mely’s Mexican Cuisine properly purchased the Event through its cable television provider, Comcast. (A copy of Third-Party Plaintiff’s Comcast bill dated December 5, 2009, is attached hereto and incorporated herein by reference.

12. J&J alleges that Third-Party Plaintiffs were not authorized to intercept, receive, or transmit the communication of the Event or to assist in such actions in any form or at any time.

Nevertheless, Comcast permitted Third-Party Plaintiffs to purchase the Event through its commercial cable account with Comcast.

**IV.  
CAUSES OF ACTION**

**BREACH OF CONTRACT AND DTPA**

13. Third-Party Plaintiffs incorporate the allegations of the preceding paragraphs by reference as if fully set forth herein.

14. Third-Party Plaintiffs are party to a valid and enforceable contract with Comcast. In the event that Third-Party Plaintiffs must pay any monetary damages on account of their valid purchase of the Event through Comcast, Comcast will have breached its contract with Third-Party Plaintiffs. Third-Party Plaintiffs are entitled to recover from Comcast any sums that they are required to pay as a result of their purchase of the Event through Comcast.

15. If J&J's allegations are true, Comcast did not have authorization to sell the Event to Third-Party Plaintiffs. Yet, Comcast sold it to Third-Party Plaintiffs for \$54.99 anyway thus subjecting Third-Party Plaintiffs to statutory liability under what J&J alleges is 11 U.S.C. §§553 and 605.

16. Third-Party Plaintiffs are consumers under the Texas Deceptive Trade Practices-Consumer Protection Act ("DTPA"). Tex. Bus. & Comm. Code §17.41 *et. seq.* Comcast's acts herein also violate the Texas DTPA. By improperly selling the Event to Third-Party Plaintiffs and, as J&J alleges, subjecting Third-Party Plaintiffs to statutory monetary damages, Comcast has violated §17.46(b)(2), (b)(3), and (b)(5).

17. As a result of Comcast's breach of contract and violations of the DTPA, Third-Party Plaintiffs have incurred monetary damages in the form of attorneys' fees and costs for its defense and potential monetary damages owed to J&J. Third-Party Plaintiffs seek monetary

damages from Comcast in an amount within the jurisdictional limits of this Court.

**CONTRIBUTION**

18. Third-Party Plaintiffs incorporate the allegations of the preceding paragraphs by reference as if fully set forth herein.

19. To the extent Third-Party Plaintiffs are required to pay any monetary damages to J&J on account of their purchase of the Event through Comcast, Third-Party Plaintiffs will have paid the full amount of the judgment despite properly purchasing the Event through Comcast. Third-Party Plaintiffs will have paid more than its proportional share to satisfy the judgment. As such, Third-Party Plaintiffs are entitled to recover from Comcast any amounts that must be paid to the extent of the benefit Comcast received from such payments.

**INDEMNITY**

20. Third-Party Plaintiffs incorporate the allegations of the preceding paragraphs by reference as if fully set forth herein.

21. Third-Party Plaintiffs' properly and without prior knowledge purchased the Event through its commercial cable television account with Comcast. Comcast sold the Event to Third-Party Plaintiffs for \$54.99. Two years later, J&J files suit against Third-Party Plaintiffs for alleges violations of the 11 U.S.C. §§553 and 605. If J&J's allegations are true, Comcast did not have authority to sell the Event to Third-Party Plaintiffs. Yet, Comcast sold it anyway thereby subjecting Third-Party Plaintiffs to liability.

22. To the extent Third-Party Plaintiffs are required to pay monetary damages to J&J, Third-Party Plaintiffs will have paid the full amount of the judgment when it properly and without prior knowledge of J&J's alleged exclusive contract purchased the Event through its commercial cable television service provider, Comcast. Third-Party Plaintiffs' liability for any

damages that must be is entirely vicarious because Third-Party Plaintiffs were innocent parties who properly and rightfully purchased the Event through their cable service provider, Comcast. Thus, Third-Party Plaintiffs are not independently culpable, but rather are only liable as a result of having purchased the Event through Comcast who apparently should not have allowed Third-Party Plaintiffs to purchase the Event. As such, Third-Party Plaintiffs are entitled to recover from Comcast any damages that must be paid to J&J.

**QUANTUM MERUIT**

23. Third-Party Plaintiffs incorporate the allegations of the preceding paragraphs by reference as if fully set forth herein.

24. In the alternative to Third-Party Plaintiffs' Third-Party Complaint for Breach of Contract, Third-Party Plaintiffs assert that it they are innocent parties who properly purchased the Event through Comcast, its commercial cable television service provider for \$54.99. If J&J's allegations are true, Comcast should not have permitted Third-Party Plaintiffs to purchase the Event. By properly purchasing the Event through Comcast, J&J alleges that Third-Party Plaintiffs have violated 47 U.S.C. §§553 and 605. As such, Third-Party Plaintiffs are entitled to recover the monetary damages from Comcast that it would otherwise be required to pay to J&J.

Respectfully submitted,

//s/ George A. Kurisky, Jr.  
George A. Kurisky  
Texas Bar No. 11767700

**ATTORNEYS FOR THIRD-PARTY  
PLAINTIFFS MELYS INVESTMENT GROUP,  
LLC INDIVIDUALLY AND D/B/A MELY'S  
MEXICAN CUISINE AND D/B/A MELY'S  
RESTAURANT BAR AND JOHN R. REIMER**

OF COUNSEL:

**JOHNSON DELUCA KURISKY & GOULD, P.C.**

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Texas Bar No. 24033057  
4 Houston Center  
1221 Lamar Street, Suite 1000  
Houston, Texas 77010  
(713) 652-2525 Telephone  
(713) 652-5130 Facsimile

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served via CM/ECF and facsimile on the 1st day of May, 2012, to the following:

**VIA FACSIMILE 214-521-8821**

DAVID M. DIAZ  
ANDREW R. KORN  
KORN, BOWDICH AND DIAZ, LLP  
4221 AVONDALE AVE.  
DALLAS, TEXAS 75219

//s/ George A. Kurisky, Jr.  
George A. Kurisky, Jr.



Account Number	8777 70 173 0151419
Billing Date	12/05/09
Unpaid Balance	\$393.00 - Due Now
New Charges	\$462.98 - Due 12/25/09
Total Amount Due	\$855.98

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Contact us: [www.comcast.com](http://www.comcast.com) 713-341-8800

### Meiys Mexican Cuisine #

For service at:  
3659 NASA PKWY STE A  
MELYS MEXICAN CUISINE  
SEABROOK, TX 77586-6324

### News from Comcast

Unpaid balance due immediately. A late fee of \$7, a non-pay reactivation fee up to \$7.99 & a \$34.95 collection fee may apply. A deposit, restart fee, and first month's payment will be required before restart. A fee of up to \$475 will be applied for all unreturned equipment.

Save time. Save a tree. Your entire statement is available online. Sign up today for secure online billing and say goodbye to your paper bill forever. Also available are automatic monthly payments so you'll never need checks, stamps or envelopes again. Visit [www.comcast.com/ecobill](http://www.comcast.com/ecobill) support to register today.

More information regarding our rates is available on our website [www.comcast.com](http://www.comcast.com) or you can call us at 713-341-1000.

Call before you dig - 1-800-669-8344 for underground cable location to prevent cable cuts.

### Monthly Statement Summary

Previous Balance	393.00
Payment	0.00
Unpaid Balance - Due Now	393.00
New Charges - Due by 12/25/09	462.98
<i>See below for more information</i>	
<b>Total Amount Due</b>	<b>\$855.98</b>

### New Charges Summary

Comcast Cable Television	317.94
Comcast High-Speed Internet	94.95
Taxes, Surcharges & Fees	50.09
<b>Total New Charges</b>	<b>\$462.98</b>

**Thank you for being a valued Comcast customer!**

*Handwritten signature and date: 2/6/15*

Detach and enclose this coupon with your payment. Please write your account number on your check or money order. Do not send cash.



8590 W TIDWELL HOUSTON TEXAS 77040-5568  
8777 7000 NO RP 05 12062009 YYNNNY 01 014050

MELYS MEXICAN CUISINE #  
3659 NASA PKWY STE A  
MELYS MEXICAN CUISINE  
SEABROOK, TX 77586-6324



Account Number	8777 70 173 0151419
Payment Due By	Due Now
Total Amount Due	\$855.98
Amount Enclosed	\$

Make checks payable to Comcast

COMCAST  
PO BOX 680618  
DALLAS TX 75266-0618



877770173015141900855981

**EXHIBIT**

tabbies

**A**





## Service Details

Contact us: [www.comcast.com](http://www.comcast.com) 713-341-8800

Account Number 8777 70 173 0151419  
 Billing Date 12/05/09  
 Unpaid Balance \$393.00 - Due Now  
 New Charges \$462.98 - Due 12/25/09  
 Total Amount Due \$855.98  
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## Comcast Cable Television

Commercial Basic Video	12/05 - 01/04	60.00
Basic Service		
Commercial Basic Video	12/05 - 01/04	110.00
Expanded Basic		
Sports Entertainment PK	12/05 - 01/04	7.95
Comm Digital Preferred	12/05 - 01/04	20.00
HD Digital Box	12/05 - 01/04	5.00
ADDTL HD Digital Box	12/05 - 01/04	20.00
Qty 4 @ \$5.00 each		
Commercial Digital A/O	12/05 - 01/04	10.00
Commercial Digital A/O	12/05 - 01/04	30.00
Qty 3 @ \$10.00 each		
Pacquiao V Cotto	11/14 7:00 P.M.	54.99
<b>Total Comcast Cable Television</b>		<b>\$317.94</b>

## Taxes, Surcharges &amp; Fees

Cable Television	
Franchise Fee	17.02
State and Local Sales Tax	27.64
FCC Regulatory Fee	0.07
Internet	
State and Local Sales Tax	5.36
<b>Total Taxes, Surcharges &amp; Fees</b>	<b>\$50.09</b>



## Comcast High-Speed Internet

Business Class Internet	12/05 - 01/04	5.00
Device Fee		
Business Class Internet	12/05 - 01/04	89.95
Enhanced W/video		
<b>Total Comcast High-Speed Internet</b>		<b>\$94.95</b>



For technical or billing questions, please call 713-341-1000. Notice about Electronic Check Conversion: When you remit a check as payment, you authorize us to use information from your check to make a one-time electronic fund transfer(EFT)from your account. When we use information from your check to make an EFT, funds may be withdrawn from your account as soon as the same day that payment is received, and you will not receive your cancelled check back. If we cannot post the transaction electronically,an image copy of your check may be presented for payment. For questions or further details, you may contact us at 800-669-4396. \*\*\*Nonpayment of any portion of your cable TV, Internet, phone, and/or home security service(s)could result in disconnection of any service provided by Comcast.  
 Hearing/Speech Impaired Call 711 for Customer Service.  
 Moving? Call 1-888-COMCAST

FCC Community ID: TX0515 - City Of Seabrook, 1700  
 First St, Seabrook, TX 77586 Phone 281-291-5600